

**THE LANCASHIRE COUNTY COUNCIL
WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
THE LANCASHIRE COUNTY COUNCIL FOOTPATH AT AYREFIELD ROAD
AND AYREFIELD HOUSE, UP HOLLAND DEFINITIVE MAP MODIFICATION
ORDER 2019**

STANCE

The Lancashire County Council, following the decision of the Regulatory Committee on 30 January 2019, are supporting the above Order.

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 30th January, 2019 at 10.30 am in Committee Room 'B' (The Diamond Jubilee Room) - County Hall, Preston

Present:

County Councillor Jimmy Eaton BEM (Chair)

County Councillors

M Barron	A Clempson
J Cooney	T Burns
I Brown	L Cox
P Steen	D Howarth
J Marsh	B Dawson

1. Apologies

Apologies for absence were received from County Councillor Terry Aldridge.

County Councillor Bernard Dawson replaced County Councillor Jean Parr.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

3. Minutes of the last meeting

Resolved: That the minutes of the last meeting held on 14 November 2018 be confirmed and signed by the Chair.

4. Guidance

A report was presented providing guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way and the law and actions taken by the Authority in respect of certain Orders to be made under the Highways Act 1980.

Resolved: That the Guidance set out in Annexes 'A', 'B' and 'C' of the report presented, be noted.

5. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition of a footpath along Ayrefield Road past Ayrefield House to Footpath Up Holland 2

A report was presented on an application by Up Holland Parish Council, under Schedule 14 of the Wildlife and Countryside Act 1981, for a footpath to be added along Ayrefield Road past Ayrefield House to Footpath Up Holland 2 on the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan between points A-B-C-D, attached to the agenda papers.

David Goode pointed out two errors on the report:

- Page 31 Recommendation (i) should read ...'for a footpath along Ayrefield **Road...**'
- Page 73 first sentence under Landownership should read ...'at the very **western** end of the route ...'

A site inspection had been carried out on 18 September 2018.

The Committee noted that the map and documentary evidence examined supported the view that the route had existed since at least the late 19th Century and that, until 2014, use of the route had been unchallenged.

It was advised that for the period 1994 to 2014, there was sufficient evidence of 'as of right' use of the route by the public between points A and D to raise a presumption of dedication.

Taking all the evidence into account, and on the balance of probabilities, it was suggested that the Committee may consider that the higher statutory test for dedication of a public right of way between points A to D could be satisfied. In addition, Committee may also consider that the common law test for inference of dedication had been satisfied for the full extent of the route claimed. Committee was therefore advised to accept the claim for the route marked A-B-C-D to be added to the Definitive Map and Statement as a public footpath and to promote the order to confirmation.

Resolved:

- (i) That the application for a footpath along Ayrefield Road past Ayrefield House to Footpath Up Holland 2, in accordance with File No. 804-600, be accepted.
- (ii) That an Order(s) be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53 (c)(i) of the Wildlife and Countryside Act 1981, to add a footpath along Ayrefield Road past Ayrefield House to Footpath Up Holland 2, on the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan between points A-B-C-D.
- (iii) That being satisfied that the higher test for confirmation can be met, the Order be promoted to confirmation.

**6. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Bridleway from Coastal Road to Lancaster Canal
towpath, Bolton-le-Sands, Lancaster
File No. 804-602**

A report was presented on an application under Schedule 14 of the Wildlife and Countryside Act 1981 for a restricted byway to be recorded on the Definitive Map and Statement of Public Rights of Way from Coastal Road to the Lancaster Canal, Bolton-le-Sands, shown by a thick dashed line between points A-B on the Committee plan attached to the agenda papers.

David Goode pointed out that there was an error in the report and that the application was for a restricted byway, not a footpath as had been stated in the report.

It was reported that, from 1846 to the current day, all map and documentary evidence examined suggested that the route had remained unaltered and, although gated at point A and point B for at least some of its existence, the route appeared to have been capable of being used, subject to being able to get through, round or over any gates, and supported the user evidence submitted as part of the application, to gain access to and from the canal towpath.

The user evidence clearly showed the use of the route on foot and on bicycle for an extensive period without any apparent interruption. No user claimed to have been stopped or turned back from using the route, nor had any signage been erected to deter users.

It was suggested that the Committee may consider that there had been as of right use for the twenty year period without any interruption, and without any sufficient overt acts demonstrating an intention not to dedicate by the owners during that period. Taking all the evidence into account, on balance, it was suggested that Committee may consider that there was sufficient evidence from which a dedication of this route as a bridleway could be deemed under Section 31 of the Highways Act 1980, or inferred under Common Law, and that the application be accepted with the modification that the route is recorded as a bridleway.

Resolved:

(i) That the application for the addition to the Definitive Map and Statement of Public Rights of Way of a restricted byway from Coastal Road to the Lancaster Canal, Bolton-le-Sands, in accordance with File No. 804-602, be accepted subject to the recording of additional rights discovered.

(ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981, to record a Bridleway from Coastal Road to the Lancaster Canal on the Definitive Map

and Statement of Public Rights of Way as shown on the Committee plan between points A and B.

(iii) That being satisfied that the higher test for confirmation can be met, the Order be promoted to confirmation.

7. Urgent Business

There were no items of Urgent Business.

8. Date of Next Meeting

It was noted that the next meeting of the Committee would be held at 10.30am on Wednesday 13th March 2019 in Cabinet Room 'B' – The Diamond Jubilee Room at County Hall, Preston.

L Sales
Director of Corporate Services

County Hall
Preston

Notice of Decision

Application for a Modification Order



Wildlife and Countryside Act 1981

The Definitive Map and Statement of Public Rights of Way for the County of Lancashire

Name and Address of Claimant

Up Holland Parish Council, 10 The Nook, Appley Bridge, Wigan, WN6 9JB

Particulars of Claim

Claim number: 804/600 (888.1455)

Date of determination of the claim: 30th January 2019

Modification Claimed

Addition of a footpath along Ayrefield Road past Ayrefield House to Footpath Up Holland 2

Particulars of the Decision

In pursuance of their powers and duties under the Wildlife and Countryside Act 1981 and in accordance with Section 53(5) and Schedule 14 of the 1981 Act, Lancashire County Council have investigated the matters referred to in the Claim set out above.

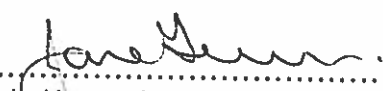
Notice is hereby given that Lancashire County Council have determined To Make an Order to modify The Definitive Map and Statement of Public Rights of Way for the County of Lancashire in accordance with the claim.

The reason for the County Council's decision is:

The Regulatory Committee, having taken all relevant evidence into account, determined that there was sufficient evidence of a dedication able to be deemed or inferred along the claimed route.

Date: 31st January 2019

Signed:


(Principal Lawyer for an on behalf of the Director of Corporate Services)

NB: Important guidance notes are provided overleaf

Laura Sales
Director of Corporate Services
Lancashire County Council
County Hall
Preston
PR1 8XJ

Guidance Notes

1. Where the County Council decide **to make an Order**, steps will be taken to prepare the Order to bring this decision into effect. At that time, a copy of the Order and plan together with a Notice giving details of the Order will be sent to you and details will also be published in the local press and displayed on site.
2. It is important to note that this Order has no legal effect until such time as it has been confirmed by the Local Authority and until that time, the route has the same legal status as it does today.
3. Where the County Council decided **not to make an Order**, the Applicant may, in accordance with Paragraph 4 to Schedule 14 of the Wildlife and Countryside Act 1981, **AT ANY TIME WITHIN 28 DAYS AFTER THE SERVICE ON HIM OF THE NOTICE OF THE DECISION**, serve a Notice of Appeal against that decision on the Secretary of State and the County Council.
4. Your appeal should be made to:

Rights of Way Team
The Planning Inspectorate
Room 3/25, Hawk Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN
5. A copy of the Notice of appeal must also be sent to the County Council:

Director of Corporate Services
(REF: LSG4/CB7/888.1455/804.600)
County Hall
Preston
PR1 8XJ
6. If, on considering the Appeal, the Secretary of State considers that an Order should be made, he will direct the County Council to make an Order accordingly.